

G. R. S. IX-5]

Previous references.

G. 294-10 (1-6)

1916. 17

(Courts)

File No. 321-16

Serial Nos. 1-2

Later references.

Ch-186-17(142)

Ch: 71-45 (1-3.)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-2

Part B for June 1917

SUBJECT.

Travelling Allowance to Mysore Officials
attending Madras Criminal Courts.

2) To, The Heads of Departments
The Dy Commissioners of Ds
The Registrar Chief Court.

No of 43521-4401 29.5.17

Issuing revised Rules re. payment of
Travelling Allowance to witnesses
attending criminal courts in the Madras
Presidency

W D 88-GPB-50,000-24-7-16

Wagansundar
9/7/17

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 321-16

FILE HEADING.

Travelling allowance to Mysore Officials
Attending Madras Criminal Courts.

From

The First Assistant to the Secy. to the Resident
at Mysore.

Encl. No. 2907

Dated

14th

April 17

Received

No. 4. 17

Diary No. 2263

Enclos. 9

Spare Copies. -

Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwarded for information, Copies of Proceedings of
the Madras Govt. No. 544 (Home) (Judicial), dated
7th March 1917, on the above subject.

NOTES AND ORDERS.

) Subd

Not in

If approved, the amendments to the rules will be
communicated to all concerned by means
of a Govt. order, ~~being the~~ as was done
in 1912.

msu
14.5.17 Mh.

Ys.
Es

15/5

9263

WD 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2,

General and Revenue
Secretariat.

Cts File No. 321 of 1916.

Serial
No.

2) Submitted with a draft Gout. order.

msu
16.5.17
16/5/17

3 May be approved

175

3172
17.5.17

Dist. Member)

4) Draft approved by the 1st member

19/5/17

21/5

Issue

21/5

2.

To, The Heads of Deptts

The Dy Commr. of Dts.

The Regr Chief Court

Passing Certain orders re the payment
of travelling allowances to witnesses
attending Criminal Courts in the
Madras Presidency.

3)

19 -19	
SECTION	CS
FILE NO.	321-16
GENERAL NO. 1	

Proceedings of the Madras Government No. 544, Home (Judicial), dated the 7th March 1917.

cial), dated the 7th March 1917.

No 1740
10.4.17

RECEIVED
12 APR 1917

GEN. & RESIDENT'S OFFICE
JUDICIAL
16 APR 1917

No. 2904
ent g.

Mysore Resident's Office,
Bangalore, 14 April 1917.

with 8 spare copies.

A copy of the foregoing proceedings is forwarded to the Secretary to the Government of His Highness the Maharaja of Mysore, General Department, for information, in continuation of Mr. Warburton's endorsement No. 4553, dated the 6th August 1912.

J. S. G. Suresh.

First Assistant Resident.
28

SUBJECT.....

Diary No. of letter replied to.....

Section *Courts*

File No. 321-16

Serial No. 2

General and Revenue Secretariat

Proceedings of the Government of

His Highness the Maharaja of Mysore.

Date of issue.....

29/5/17

Read: Govt. Progs. No. J. 873-

Signed by.....

M^r G. Srinivasan

913/cts 294-10-8 dated 23rd

September 1912 in the matter of the grant of travelling allowances in accordance with the Mysore Service Regulations to the officials of the Mysore Government appearing as witnesses in their official capacity before Criminal Courts in the Madras Presidency.

May this be

- i printed? *yes*
- ii treated as a standing order? *yes*
- iii published in the Gazette English part? *no*
- iv translated? *no*
- v placed at the disposal of the Press? *no*
- vi published in the Gazette Kannada part? *no*

over.

29/5

2. Endorsement No. 2907 dated the 16th April 1917 from the First Assistant to the Honble the Resident in Mysore, forwarding the Proceedings of the Madras Government No. 544, Home (Judicial), dated the 7th March 1917, issuing revised Rules regarding payment of travelling allowance to witnesses attending Criminal Courts in the Madras Presidency.

Order No. 4352-4401

Ordered that the amended Rules issued by the Madras Govt. & printed as an annexure to this, be communicated to the Heads of Departments, the Deputy Commissioners of Districts & the Registrar of the Chief Court, in supersession of ~~the former~~ those communicated with the Govt. order read above.

List of enclosures.

Copied by

Examined by

175

For General Secretary

To the Heads of Depts.
a Deputy Commissioner
a Registrar, Chief Ct.

Annexure
[Here insert the Amended Rules]

**Government of His Highness the Maharaja
of Mysore.**

GENERAL AND REVENUE DEPARTMENTS.



**G. O. No. J. 4352-4401—Cts. 321-16-2,
dated 29th May 1917.**

**Travelling Allowance to Witnesses Attending Criminal Courts in the
Madras Presidency.**

Issuing revised Rules regarding payment of —.

**Travelling Allowance to Witnesses
Attending Criminal Courts in the
Madras Presidency.**

No. J. 4352-4401—Cts. 321-16-2, DATED 29TH MAY 1917.

**PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.**

GENERAL AND REVENUE DEPARTMENTS.

READ --

Government Proceedings No. J. 873-913—Cts. 294-10-6, dated 23rd September 1912, in the matter of the grant of travelling allowance, in accordance with the Mysore Service Regulations, to the officials of the Mysore Government appearing as witnesses in their official capacity before Criminal Courts in the Madras Presidency.

2. Endorsement No. 2907, dated 14th April 1917, from the First Assistant to the Hon'ble the Resident in Mysore, forwarding the Proceedings of the Madras Government No. 544, Home (Judicial), dated the 7th March 1917, issuing revised rules regarding payment of travelling allowance to witnesses attending Criminal Courts in the Madras Presidency.

Order No. J. 4352-4401—Cts. 321-16-2, dated 29th May 1917.

Ordered that the amended Rules issued by the Madras Government and printed as an annexure to this, be communicated to the Heads of Departments, the Deputy Commissioners of Districts and the Registrar of the Chief Court, in supersession of those communicated with the Government Order read above.

D. M. NARASINGA RAO,
Secy. to Govt., Gen. Dept.

To—The Heads of Departments.
The Deputy Commissioners of Districts.
The Registrar, Chief Court of Mysore.

Exd.—C. R.

J. 4352-4401—CTS. 321-16-2, DATED 29TH MAY 1917.

GOVERNMENT OF MADRAS.

HOME DEPARTMENT (JUDICIAL.)

G. O. No. 544, 7th March 1917.

Rules for the payment of the expenses of complainants and witnesses attending Criminal Courts.

Issuing certain amendments to the — so as to provide for the payment to them of motor fares and publishing the rules revised up to date in the *Fort St. George Gazette*.

ANNEXURE I.

Notification.

Under section 544 of the Code of Criminal Procedure, the Governor in Council, with the previous sanction of the Governor-General in Council, is pleased to make the following revised rules for regulating the payment, on the part of Government, of the expenses of witnesses (including complainants) attending the criminal courts in the City of Madras:—

1. Subject to the provisions hereinafter contained, the expenses of witnesses will be paid on behalf of Government in the following classes of cases, *viz.*:—

(a) Cases shown in the second schedule of the Code of Criminal Procedure as not bailable.

(b) Cases in which the prosecution is instituted or carried on under the orders or with the sanction of the Governor in Council or of any public servants acting as such.

(c) Where the witness in question has been compelled to attend by a process issued under section 540 of the Code.

(d) Cases in which the court certifies that the attendance of such witness was directly in furtherance of the interests of public justice.

2. (1) For the purposes of these rules, Europeans, Eurasians and Indians shall be divided into three classes, and the Magistrate before whom they are required to appear, or the Commissioner of Police or in the case of witnesses from the mufassal, the Magistrate of the district from which they come shall fix the class with due regard to the station in life of each individual.

(2) For the purposes of this rule, the Magistrate of the district may delegate his powers to any Subordinate Magistrate.

3. The following are the maximum rates which may be awarded to the several classes of witnesses, and no expenses in excess of, or other than, those here provided for shall be allowed:—

Witness	Class	Subsistence allowance	Carriage-hire allowable for days of actual attendance	Travelling expenses, if any, incurred			
				By rail	By a public* motor service	By road otherwise than by public motor service	By sea or canal
Europeans and Eurasians	1st class...	5 rupees per day.	3 rupees per day...	1st class fare	1st class fare	8 annas per mile	Actual expenses of passage
	2nd " ...	3 " "	2 " " ...	2nd class fare	2nd class fare	6 " "	
	3rd " ...	1½ " "	1 rupee " ...	3rd class fare	3rd class fare	4 " "	
Indians ...	1st " ...	2 " "	2 rupees " ...	1st class fare	1st class fare	6 " "	
	2nd " ...	1 rupee "	1 rupee " ...	2nd class fare	2nd class fare	2 " "	
	3rd " ...	5 annas "	Nil.	3rd class fare	3rd class fare	2 annas per 10 miles.	

* If there are only two classes the first and second class witnesses will be paid the higher class fare and third class witnesses the lower class fare.

4. All disbursements under these rules shall be made by the Commissioner of Police, to whom witnesses coming from the mufassal should report themselves on arrival at Madras.

5. Witnesses resident in the Presidency town will be entitled only to such actual expenses as they may show to the satisfaction of the Commissioner of Police that they have been obliged to incur in obedience to the process or order of the courts.

6. Witnesses sent from the mufassal will be furnished with a certificate by the despatching Magistrate showing the class to which they belong, the date of their departure, and the correct distances (if any) to be travelled by road; and unless such certificate is produced before the Commissioner of Police, that officer may disallow all or any of the expenses claimed.

No. J. 4352-4401—Cts. 321-16-2, DATED 29TH MAY 1917.

7. Mufassal Magistrates may make reasonable advances to witnesses summoned by the High Court or Presidency Magistrates and requiring such advances to enable them to reach Madras, but shall in every such case note the same on the certificate referred to in rule 6. The Commissioner of Police should also be advised of such advances, and he will refund the amount to the officer making the advance.

8. Whenever it is practicable for witnesses to travel by rail or steamer, they shall be allowed no more than the rates prescribed for those modes of conveyance.

9. Subsistence allowance may be paid for the days occupied in travelling to Madras as well as in the return journey. The subsistence allowance at Madras will cease as soon after the conclusion of the inquiry or trial as the means of quitting the town become available.

10. The expenses of witnesses will be paid on production of a certificate signed by the presiding Magistrate or in the case of the High Court by the Clerk of the Crown setting forth the enquiry or trial in which their attendance was required and the days on which they attended.

11. It shall be competent to the court before which a witness appears to disallow payment of any expenses on behalf of Government if for any cause such court thinks fit to do so.

12. The Commissioner of Police will disallow the whole or the part of expenses of any witness for the defence whose evidence may not seem to him to have been material, unless he is satisfied that such witness has been brought down to Madras against his will and that no compensation for his expenses has been paid or deposited by the defendant. This power does not extend to the case of a witness who has been examined and certified by the Court or Magistrate to have been material.

13. In applying the foregoing rules to public servants to whom the Civil Service Regulations are applicable the following additional rules shall be observed :—

(1) When a public servant appears in any case under rule 1 to give evidence in his official capacity, that is, evidence of facts within his knowledge as an official, no payment shall be made to him, but the court will give him a certificate setting forth that he appeared to give evidence of what had come to his knowledge, or of matters with which he had to deal, in his official capacity, the dates on which he appeared and the period for which he was detained, so as to enable him to draw travelling allowance and batta under Article 1133 of the Civil Service Regulations.

(2) When a public servant appears in his official capacity as a witness in a case which does not come under rule 1 (*e.g.* in a case in which section 244 (3) or 257, Code of Criminal Procedure, is applied), or when a public servant appears to give evidence in any case as a private person, travelling allowance and batta may be paid to him in the ordinary manner, but the court shall send an advice of all such payments made to him to the head of the office in which he is employed. In this advice the amount paid as batta and the period during which the attendance of the witness in court was necessary shall be stated,

(3) When an official of the Court of Wards appears in his official capacity as a witness in a case connected with an estate under superintendence of the Court of Wards the Judge or Magistrate before whom the trial takes place will furnish such official with a certificate showing the days on which he attended to give evidence and the amount of batta and travelling allowance paid to him on that account.

(4) When a public servant whose emoluments are governed by the Army Regulations, India, appears in any case under rule 1 to give evidence in his official capacity, he shall be paid the travelling allowance and batta admissible under these rules, and shall be furnished with a certificate showing in detail the amount paid. If the amount paid is less than the amount admissible to him under the military rules to which he is subject, the difference will be paid to him by the military authorities on production of the certificate.

14. Medical subordinates in Local Fund or Municipal employ (including Government servants lent to, and paid by, local bodies) when attending court to give evidence in their public capacity shall be paid the same rates of travelling allowance and batta as would be admissible to Government servants of similar grades under the Civil Service Regulations.

15. Subjects of the French Government who are in the official employ of that Government in the French Dependencies in India appearing as witnesses before criminal courts in Madras City may, if such claim be made, be paid their expenses at the rates to which they are entitled under the Regulations of their own Government in like case. Magistrates are required to refer any claim under this rule for scrutiny to the Collector of South Arcot, who is the Special Political Agent for the French Dependencies in India.

16. Officials of the Government of Ceylon appearing as witnesses before courts in Madras City may if such claim be made, be paid their expenses at the rates to which they are entitled under the Regulations of their own Government in like case. The claim should be submitted through the head of the department to which the official belongs.

17. Officials of the Mysore Durbar appearing as witnesses in their official capacity before courts in Madras City may, if such claim be made, be paid their expenses at the rates at which they would be entitled under the Regulations of their own Government. This arrangement may be extended by the Government to other Native States which have agreed to pay the expenses of British official witnesses from the Madras Presidency appearing in their courts on the same scale as that admissible to them under the Regulations of the Madras Government.

II

Rules for the payment of the expenses of complainants and witnesses attending criminal courts in the Madras Presidency outside the Presidency Town.

Under section 544 of the Code of Criminal Procedure, the Governor in Council, with the previous sanction of the Governor-General in Council, is pleased to make the following revised rules for regulating the payment, on the part of Government, of the expenses of witnesses (including complainants) attending criminal courts in the Madras Presidency other than those of the City of Madras:—

1. The criminal courts are authorised to pay, at the rates specified in rule 4, the expenses of complainants and witnesses in cases in which the prosecution is instituted or carried on by, or under the orders, or with the sanction of the Government, or of any Judge, Magistrate, or other public officer, or when it shall appear to the Judge or Magistrate presiding over such court, to be directly in furtherance of the interests of public justice; also in cases entered in column 5 of schedule II appended to the Code of Criminal Procedure as not bailable; and in all cases in which the witnesses are compelled to attend by a Magistrate under the provisions of chapter XLVI of the Code.

2. (1) For the purpose of these rules witnesses are divided into two classes namely, of officials and non-officials. Official witnesses, that is to say, public servants to whom the Civil Service Regulations are applicable summoned to give evidence as officials, are entitled to receive for their journeys to and from the court and for the days spent by them in attendance at the court to give evidence in cases coming under rule 1, travelling allowances at the rates prescribed by the Civil Service Regulations for the time being in force. The court shall not, however, make any payment to official witnesses in such cases, but shall grant them certificates setting forth that they appeared to give evidence of what had come to their knowledge, or of matters with which they had to deal, in their official capacity the date on which they appeared and the period for which they are detained, so as to enable them to draw travelling allowance and batta under Article 1133 of the Civil Service Regulations.

(2) When a public servant appears in his official capacity as a witness in other cases (e.g., in cases in which section 244 (3) or 257, Code of Criminal Procedure, is applied), or when a public servant appears to give evidence in any case as a private person, travelling allowance and batta may be paid to him in the ordinary manner, but the court shall send an advice of all such payments made to him to the head of the office in which he is employed. In this advice the amount paid as batta and the period during which the attendance of the witness in court was necessary shall be stated.

(3) When an official of the Court of Wards appears in his official capacity as a witness in a case connected with an estate under the superintendence of the court of Wards, the Judge or Magistrate before whom the trial takes place will furnish such official with a certificate showing the days on which he attended to give evidence and the amount of batta and travelling allowance paid to him on that account.

(4) When a public servant whose emoluments are governed by the Army Regulations, India, appears in any case under rule 1 to give evidence in his official capacity, he shall be paid the travelling allowance and batta admissible under these rules, and shall be furnished with a certificate showing in detail the amount paid. If the amount paid is less than the amount admissible under the military rules to which he is subject, the difference will be paid to him by the military authorities on production of the certificate.

3. Medical subordinates in Local Fund or Municipal employ (including Government servants lent to and paid by local bodies) when attending court to give evidence in their public capacity shall be paid the same rates of travelling allowance and batta as would be admissible to Government servants of similar grades under the Civil Service Regulations.

4. Non-official witnesses are entitled to travelling allowances under two different scales as shown below according as they are (1) Europeans or Eurasians, or (2) Indians. Persons falling under either of these descriptions are for the purposes of these rules, divided into three classes; and the Judge or Magistrate before whom they are required to appear either as complainants or as witnesses shall be careful to fix the class with due regard to the station in life which they occupy—

	Europeans and Eurasians			Indians		
	First class	Second class	Third class	First class	Second class	Third class
1	2	3	4	5	6	7
Travelling allowance— By rail ...	First class fare.	Second class fare.	Third class fare.	First class fare.	Second class fare.	Third class fare.
*By a public motor service.	Do	Do	Do	Do	Do	Do
By road, otherwise than by public motor service.	As. 8 per mile.	As. 4 per mile	As 2 per mile	As. 6 per mile	As. 2 per mile	Pies 3 per mile
By sea or canal ...	Actual expenses of passage.			Actual expenses of passage.		
Batta not to exceed...	Rs. 3 per diem	Re. 1 per diem	As. 8 per diem	Re. 1 per diem	As. 8 per diem	As. 4 per diem

9 If there are only two classes, the first and second class witnesses will be paid the higher class fare and the third class the lower class fare.

No. J. 4352-4401—CTS. 321-16-2, DATED 29TH MAY 1917.

5. In cases within rule 1, the Commissioner of Police may make reasonable advances to witnesses resident in the City of Madras who are summoned by a criminal court in the mufassal and who require the advances to enable them to reach the court. The court issuing the summons, on being advised by the Commissioner of Police of the advances made, will refund the amount to him.
 6. The distance for which mileage and the number of days for which batta should be allowed for the journey to and from the station at which the court is held and for attendance at court shall be determined by the Judge or Magistrate ordering the payment in each case.
 7. All bills for travelling allowance and batta to complainants and witnesses attending before the courts of Magistrates of the second and the third classes shall be scrutinized by the Magistrate of the division in which such courts are situated before the charges included in them are finally passed.
 8. Whenever a Magistrate dismisses a case as frivolous or vexatious under section 250 of the Code of Criminal Procedure, no travelling allowance or batta shall be granted to the complainant in such case.
 9. The criminal courts are authorized to pay the necessary and actual expenses of carriage to a witness travelling by road, in the case of persons whose sickness, age, position or habits of life render it impossible for them to walk, provided the expense incurred under this rule shall in no case exceed As. 8 a mile.
 10. To Indians and Europeans graded in the first class of non-officials, there may also be allowed the actual cost of carriage-hire to and from court on the days of attendance at court.
 11. Subjects of the French Government who are in the official employ of that Government in the French Dependencies in India appearing as witnesses before criminal courts in the Madras Presidency may, if such claim be made, be paid their expenses at the rates to which they are entitled under the Regulations of their own Government in like case. Magistrates are required to refer any doubtful claim for scrutiny to the Collector of South Arcot who is the Special Political Agent for the French Dependencies in India.
 12. Officials of the Government of Ceylon appearing as witnesses before criminal courts in the Madras Presidency may, if such claim be made, be paid their expenses at the rates to which they are entitled under the Regulations of their own Government in like case. The claim should be submitted through the head of the department to which the official belongs.
 13. Officials of the Mysore Durbar appearing as witnesses in their official capacity before courts in the Madras Presidency may, if such claim be made be paid their expenses at the rates at which they would be entitled under the Regulations of their own Government. This arrangement may be extended by the Government to other Native States which have agreed to pay the expenses of British official witnesses from the Madras Presidency appearing in their courts on the same scale as that admissible to them under the Regulations of the Madras Government.
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